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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

FOR THE NORTHER DISTRICT OF CALIFORNIA

MYRICK TANTIADO, an individual,

Plaintiff,

vs.

POWER MEDICAL INTERVENTIONS, a
Pennsylvania corporation, and DOES ONE
through FIFTY, inclusive,

Defendants.

Case No. C 07-02874 CRB MED

PLAINTIFF'S OBJECTIONS TO
EVIDENCE SUPPORTING
DEFENDANT'S MOTION FOR
SUMMARY ADJUDICATION

Original filing date: April 6, 2007
Removal date: June 1, 2007

Plaintiff objects to the following evidence offered by Defendant in support of its Motion
for Partial Summary Judgment:

Declaration of Michael Whitman:

The filing of this Declaration is untimely.

Para. 2, line 9: The witness has not established his knowledge of the facts claimed. FRE 602.

Lacks foundation as to what the minimum requirements of Plaintiff's job were, how those
requirements were established and how those requirements were communicated and therefore
lacks foundation for opinion testimony. FRE 701, 702.

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2 Para. 3, lines 11-12: The witness has not established his knowledge of the facts claimed . FRE
3 602. Lacks foundation as to what the minimum requirements of Plaintiff's job were, how those
4 requirements were established and how those requirements were communicated and therefore
5 lacks foundation for opinion testimony. FRE 701, 702. Lacks foundation as to what "PMI's
6 practices" were, how those practices were established and how those practices were
7 communicated and therefore lacks foundation for opinion testimony. FRE 701, 702.

8 Para. 3: The witness has not established his knowledge of the facts claimed. FRE 602. Lacks
9 foundation as to who decided to terminate Plaintiff.

10 **Declaration of Rita Esposito:**

11 Para. 2: The witness has not established her knowledge of the facts claimed. FRE 602. Lacks
12 foundation as to how the Exhibit was received. The underlying Exhibit is hearsay. FRE 802.
13 The underlying Exhibit is redacted without explanation and is therefore an incomplete exhibit.

14 **Declaration of Patricia Steffan:**

15 Para. 3: The witness has not established her knowledge of the facts claimed. FRE 602. Lacks
16 foundation as to how sales were calculated and how the declarant determined the total amount of
17 sales using the data attached as Exhibit B and therefore lacks foundation for opinion testimony.
18 FRE 701, 702.

19 **Declaration of John Duke:**

20 Para. 4: The Exhibit is incomplete.

21 Para. 6: Hearsay. FRE 802.

22 Exhibit B, excerpts of Deposition of Robert Chase, page 50, lines 2-3: The witness has not
23 established his knowledge of the facts claimed. FRE 602. Lacks foundation for opinion
24 testimony. FRE 701, 702.

25 Dated: August 15, 2008

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27 /s/Stephen F. Henry
STEPHEN F. HENRY
Attorneys for Plaintiff
28